

IN THE UNITED STATES DISTRICT  
COURT EASTERN DISTRICT OF  
WISCONSIN

The ESTATE OF SYLVILLE K. SMITH, by	)	
Personal Representative Mildred Haynes,	)	No. 17-cv-862
Patrick Smith, and Mildred Haynes, on her	)	
own behalf,	)	
	)	
Plaintiffs,	)	JURY TRIAL DEMANDED
	)	
v.	)	
	)	
CITY OF MILWAUKEE, WISCONSIN	)	
and DOMINIQUE HEAGGAN-BROWN,	)	
	)	
Defendants.	)	

## EXHIBIT 28

Robert Willis Deposition Transcript

David B. Owens  
Danielle Hamilton  
LOEVY & LOEVY  
311 N. Aberdeen St, Third FL  
Chicago, IL 60607  
(312) 243-5900

**BROWN & JONES REPORTING, INC.**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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ESTATE OF SYLVILLE SMITH,  
  
Plaintiff,

Civil Action No. 17-cv-0862

-vs-

CITY OF MILWAUKEE and  
DOMINIQUE HEAGGAN-BROWN,  
  
Defendants.

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Examination of ROBERT C. WILLIS, taken at  
the instance of Plaintiff, under and pursuant to the  
Federal Rules of Civil Procedure, before KATHLEEN E.  
CARTER, a Certified Realtime Reporter, Registered Merit  
Reporter and Notary Public in and for the State of  
Wisconsin, at City of Milwaukee, Office of City  
Attorney, 841 North Broadway, Room 716, Milwaukee,  
Wisconsin, on Tuesday, May 28, 2019, commencing  
at 10:29 a.m. and concluding at 4:33 p.m.

## A P P E A R A N C E S

LOEVY & LOEVY, by  
MS. DANIELLE HAMILTON,  
311 North Aberdeen Street, 3rd Floor,  
Chicago, Illinois 60607,  
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hamilton@loevy.com,  
appeared on behalf of the Plaintiff.

CITY OF MILWAUKEE, OFFICE OF CITY ATTORNEY, by  
MR. JAN A. SMOKOWICZ,  
200 East Wells Street,  
City Hall, Room 800,  
Milwaukee, Wisconsin 53202-3551,  
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jsmoko@milwaukee.gov,  
appeared on behalf of the Defendants.

\* \* \* \* \*

## I N D E X

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the City of Milwaukee and Robert C.  
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By Frame"..... 144Exhibit 6 - Mr. Willis's Report In Pekrun v.  
Puente And The City Of Milwaukee..... 151Disposition Of Original Exhibit/s:  
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By Ms. Hamilton - Copy Of The \$3,000 Invoice  
Sent To The City Of  
Milwaukee By Mr. Willis..... 21 21



12:27 1 would teach the subject if no one else could, but  
12:27 2 my preferences were to teach firearms, defensive  
12:27 3 tactics, driving, professional communication  
12:27 4 skills, ethics, report writing, testifying in  
12:27 5 court, the real hands-on type subjects, but I would  
12:27 6 teach the others as well.

12:28 7 Q Why did you retire as a full-time instructor for --

12:28 8 A Had to. I looked at the numbers. I'm a member of  
12:28 9 the Wisconsin Retirement System, and I really had  
12:28 10 not considered it, but I looked at the numbers, and  
12:28 11 the numbers told me that I was going to lose a  
12:28 12 substantial amount of money if I kept working.

12:28 13 For instance, if I were to work one extra  
12:28 14 year -- let's say I retired in 2016 -- that would  
12:28 15 give me \$100 extra per month on my pension, but I  
12:28 16 would have lost close to \$53,000 by not having  
12:28 17 retired in 2015. In other words, I would never  
12:28 18 make that money up, and it would even have even  
12:28 19 gotten worse had I worked an extra two years.

12:28 20 So consequently it -- it was an economic  
12:28 21 decision. It was, you know, if I want to teach, I  
12:28 22 can still do so, but I can do it as an adjunct or  
12:28 23 as a consultant.

12:28 24 But the numbers, the pension numbers,  
12:28 25 told me I just could not economically afford not to

02:57 1 capable of recording 30 seconds of action prior to  
02:57 2 activation." That -- "The 'buffered' 30 seconds is  
02:57 3 video on" -- "is video only, not audio. These  
02:57 4 on-body cameras were mounted on shoulder mounts,  
02:57 5 near the base of the right side of the necks of  
02:57 6 each officer. These cameras are state-of-the-art  
02:57 7 but are subject to limitation."

02:57 8 Q Okay. My question there is if Heaggan-Brown turned  
02:57 9 on the body camera immediately, then how come there  
02:58 10 are 30 seconds in which there's no audio?

02:58 11 A I think I just explained that in that paragraph.  
02:58 12 What happens is the camera is always on, but it's  
02:58 13 not always saving that recording. It's called  
02:58 14 buffering. The last 30 seconds is always  
02:58 15 available.

02:58 16 So, for example, if I'm sitting in a  
02:58 17 squad car, and I don't have my camera on, and a car  
02:58 18 goes through a red light in front of me, and I go,  
02:58 19 "Oh, I better put my camera on," it's going to  
02:58 20 capture what happened 30 seconds ago, so I will  
02:58 21 actually capture that car going through that red  
02:58 22 light.

02:58 23 If that weren't the case, I could put my  
02:58 24 camera on but would not have captured the car going  
02:58 25 through that red light. So there is 30 seconds.

02:58 1 Now, the limitations of the technology is  
02:58 2 that that 30 seconds is video only, not audio.  
02:58 3 Different versions of this Axon have different  
02:58 4 buffering time frames. Some buffer only 20  
02:58 5 seconds, some buffer 30 seconds.

02:58 6 This iteration of this Axon buffered 30  
02:59 7 seconds before audio went on. So the officer has  
02:59 8 nothing to do with that. When the camera's turned  
02:59 9 on, it's going to record for 30 seconds video only,  
02:59 10 and after 30 seconds the audio will kick in as the  
02:59 11 video continues. That's just the design of the  
02:59 12 camera.

02:59 13 Q Yes, but, in your understanding of the facts,  
02:59 14 Heaggan-Brown turned on the video camera as soon as  
02:59 15 he exited the vehicle; is that correct?

02:59 16 A Well, actually we have scenes of Heaggan-Brown  
02:59 17 inside the vehicle, no audio but video, so it was  
02:59 18 just prior to his exiting he had turned the camera  
02:59 19 on. So obviously he put the car in park, maybe he  
02:59 20 turned the car off -- I'm not sure, I don't  
02:59 21 recall -- and he may have gotten on the radio, but  
02:59 22 somewhere in there he also turned on his camera  
02:59 23 because it was operating while still inside the  
02:59 24 squad and as he was getting out, and 30 seconds  
02:59 25 later this event was pretty much over.



03:52 1 they're listed in the appendix to the study done by  
03:52 2 Force Science. Other studies have been done on the  
03:52 3 phenomena of continued fire.

03:52 4 Q Okay. And is it your opinion in this case that  
03:52 5 Heaggan-Brown made two conscious separate shots?

03:52 6 A Well, it was his opinion.

03:52 7 Q Is it your opinion?

03:52 8 A Not -- it was -- to me it was a possibility. To me  
03:53 9 there were other things that may have come into  
03:53 10 play, and it may not have been two separate  
03:53 11 conscious decisions.

03:53 12 I'm -- I'm okay both ways. All right?  
03:53 13 If it was a conscious decision on his part to fire  
03:53 14 Round No. 2, I believe that was justified. If it  
03:53 15 wasn't, if it was a continuous process -- and a  
03:53 16 continuous process doesn't mean continual rounds.  
03:53 17 If it was a continuous moving dynamic activity, to  
03:53 18 me that's a continuous process, there was a start  
03:53 19 decision and eventually there was a stop decision.

03:53 20 Studies, especially that one about the  
03:53 21 start and stop decision, have told us that hard  
03:53 22 enough as the start decision is to make, the  
03:53 23 decision to stop is even more difficult. It's some  
03:53 24 very overt observable action must take place to  
03:53 25 turn that survival instinct off when that is what